

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

NOVO NORDISK INC.

Plaintiff,

v.

DCA PHARMACY,

Defendant.

Case No. 3:23-cv-00668

Chief Judge Waverly D. Crenshaw, Jr.

Magistrate Judge Jeffery S. Frenzley

NOTICE OF SUPPLEMENTAL SUBMISSION

Plaintiff Novo Nordisk Inc. (“Novo”) respectfully submits this Notice of Supplemental Submission in reference to Defendant DCA Pharmacy’s pending Motion to Dismiss. ECF Nos. 15–16. Although Novo disputes that DCA Pharmacy met its burden to show that Novo is “transacting business” in Tennessee, out of an abundance of caution, Novo has now obtained a certificate of authority from the Tennessee Department of State, attached as Exhibit A. Accordingly, DCA Pharmacy’s motion to dismiss is now moot. *See Pinnacle Health Clinics, LLC v. Sentinel Ins. Co.*, No. 3:14-00508, 2014 WL 12526474, at *1 (M.D. Tenn. July 23, 2014) (“Dismissal for a lack of standing or capacity to sue is not a judgment on the merits As a practical matter, upon dismissal, Plaintiff could then refile this action. As a matter of judicial prudence, the Court concludes that Plaintiff has cured any issue about its lack of capacity or standing in this action.”); *see also Am. Bldgs. Co v. White*, 640 S.W.2d 569, 575 (Tenn. Ct. App. 1982) (“[A] corporation in non-compliance may file its lawsuit, cure its non-compliance (as ABC has done here) and then continue its litigation.”).

Counsel for Novo and DCA Pharmacy have meet and conferred and Novo understands that DCA Pharmacy is withdrawing its Motion to Dismiss.

Respectfully submitted,

By: /s/ Steven A. Riley

Steven A. Riley (TN Bar No. 6258)
Milton S. McGee, III (TN Bar No. 24150)
Joseph K. Robinson (TN Bar No. 40440)
RILEY & JACOBSON, PLC
1906 West End Ave.
Nashville, TN 37203
(615) 320-3700
sriley@rjfirms.com
tmcghee@rjfirms.com
jrobinson@rjfirms.com

Gregory L. Halperin (*admitted pro hac vice*)
COVINGTON & BURLING LLP
The New York Times Building,
620 Eighth Avenue
New York, NY 10018-1405
(212) 841-1166
ghalperin@cov.com

Michael X. Imbroscio (*admitted pro hac vice*)
Amee Frodle (*admitted pro hac vice*)
COVINGTON & BURLING LLP
850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-6000
Facsimile: (202) 662-6291
mimbroscio@cov.com
afrodle@cov.com

Attorneys for Plaintiff
NOVO NORDISK INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via the Court's ECF filing system on the 8th day of January, 2024, upon the following:

Marc O. Dedman
Barton LLP
611 Commerce Street, Suite 2603
Nashville, TN 37203
mdedman@bartonesq.com

Cory Richard Miller
Brewer, Krause, Brooks & Chastain, PLLC
545 Mainstream Dr., Suite 101
Nashville, TN 37228
cmiller@bkblaw.com

Michael Raine
Boesen & Snow LLC
8501 E. Princess Dr., Suite 220
Scottsdale, AR 85255
mboesen@bslawusa.com

/s/ Steven A. Riley _____